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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,522	05/21/2007	Fredrik Edholm	41329	2778

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PEARNE & GORDON LLP  
1801 EAST 9TH STREET  
SUITE 1200  
CLEVELAND, OH 44114-3108

EXAMINER
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LUKS, JEREMY AUSTIN

ART UNIT	PAPER NUMBER
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2837

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02/26/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/593,522		EDHOLM, FREDRIK	
	<b>Examiner</b>		<b>Art Unit</b>	
	JEREMY LUKS		2837	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 4 and 5 are objected to because of the following informalities: Claim 4 depends from cancelled claim 3, and claim 5 depends from claim 4, which is dependent on a cancelled claim. It appears as though Applicant intended for claim 4 to depend from claim 1, which now contains the limitations of previously presented claim 3, now cancelled. The Examiner will interpret as such for the following rejection. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,2,4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karlsson (5,866,859) in view of Swanson (5,295,602).

With respect to Claims 1, 2, 4 and 5, Karlsson teaches a spark catcher arrangement for a muffler comprising a muffler shell (Figures 1 and 2, #13) and an exhaust outlet cover (9) that are fixed to one another in such a manner that a pocket (Col. 7, Lines 18-23) is created between the muffler shell (13) and the exhaust outlet cover (9), said pocket receiving a spark catcher net (4) characterized in that said net (4) is kept in the pocket by fastening means (6, 7'); wherein the exhaust outlet cover (9) comprises a plate shaped part (outer portions in contact with fastening means #6, best

Art Unit: 2837

seen in Figure 3) having a hood shaped portion (Seen in Figure 2) with an outlet (opening in hood portion of #9) for exhaust gases (21), said outlet (opening in hood portion of #9) for exhaust gases (21) constituting an unobstructed opening (clearly seen in Figure 1); wherein the net (4) is connected to a sheet metal handle (6) that is provided with a resilient tongue (handle #6 could be a tongue) arranged to interact with an opening (7) of the exhaust outlet cover (13) (Col. 6, Line 43 – Col. 7, Line 1); and wherein that the plate shaped part (Figure 2, portion of #9 in contact with handle #6) is provided with a collar portion (portion of #9 in contact with handle #6) arranged to contact at least a part of the handle (6). Karlsson fails to teach wherein the net is kept in the pocket by means of a snap fastening means; wherein the net handle that is provided with a resilient tongue arranged to interact with an opening of the exhaust outlet cover; wherein that the collar portion is provided with the opening for said tongue. Swanson teaches a snap fastener fastening means (Figures 1-3, #42, 46, 44, 30, 32, 34, 36), which will hold the net of Karlsson, Figures 1-2, #4, in the pocket by means when used in combination; wherein a handle (38) (Karlsson, Figures 1-2, #6 when combined) is be provided with a resilient tongue (42) arranged to interact with an opening (36) (of the exhaust outlet cover of Karlsson, Figures 1-2, #9 when combined); wherein a collar portion (30, 32, 36) when used in combination, is arranged to receive at least a part (44, 46) of the handle (38) when used in combination; wherein that the collar portion (30, 32, 36) is provided with the opening (36) for said tongue (42). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus of Karlsson, with the apparatus of Swanson to provide simple substitution of

a fastening means that will allow for the spark arrestor element to be removed for maintenance, as is well known in the art (See U.S. Pat 5,959,262 for example). KSR International Co. v. Teleflex Inc., 82 USPQ 2d 1385 (2007).

With respect to Claim 6, Official Notice is taken, that it would have been obvious to provide wherein the net (Karlsson, Figures 1-2, #4) is welded to the handle (6), since welding internal parts of a muffler is a well known method of attachment, in addition to those noted by Karlsson (Col. 6, Lines 33-41). Further, the method of forming a device is not germane to the issue of patentability of the device itself. Therefore, this limitation has been given little patentable weight.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 2 and 4-6 have been considered but are moot in view of the new ground(s) of rejection. The examiner considers the obvious combination of Karlsson and Swanson to teach all of the limitations as claimed by Applicant.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEREMY LUKS whose telephone number is (571)272-2707. The examiner can normally be reached on Monday-Thursday 8:30-6:00, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on (571) 272-2227. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2837

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeremy Luks/  
Examiner, Art Unit 2837

/Jeffrey Donels/  
Primary Examiner, Art Unit 2837